IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8095 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MUNICIPAL AND PANCHAYAT EMPLOYEES UNION

Versus

KALOL NAGAR PALIKA

Appearance:

MRS DT SHAH for Petitioner

MR MI PATEL for Respondent No. 1

NOTICE SERVED for Respondent No. 2

Mr HH Patel, AGP for Respondent No. 3

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 14/03/2000

ORAL JUDGEMENT

Learned advocate Ms. D.T.Shah is appearing for thepetitioner union. Learned advocate Mr. MI Patel is

appearing for the respondent No. 1 and learned AGP Mr.H.H.Patel is appearing for respondent No. 3.

In this petition, the petitioner union has prayed for quashing and setting aside the impugned resolution passed by the first respondent Nagarpalika and to direct the first respondent nagarpalika to prepare seniority list of daily wagers in pursuance to the award. At the time of issuing rule, this court has passed the following order:

"Rule.

Learned counsel for the petitioner does not press for the prayer in terms of para 18(a). Hence,prayer in terms ofpara 18(a) stands rejected as having not been pressed.Respondents are directed to file affidavit in reply latest by February 28, 1993. Thereafter, it will be open to the either side to request the court for fixed date of hearing."

The respondents have not filed any affidavit in reply to the petition though there is clear direction to that effect issued by this court. Since the petitioner has not pressed for the prayer in terms of prayer clause 18(a) of the petition, this court is not now required toconsider as to whether the said prayer should be granted ornot since the same has already been rejected by this court while admitting this petition as not pressed. Now, this court is required to consider as to whether the respondents are required to prepare the seniority list of daily wagers in pursuance to the award or not. In an earlier petition being special civil application no. 5649 of 1983 filed by the Municipal and Panchayat Employees' Union, Kalol against the very same respondent wherein Ms. D.T.Shah was appearing on behalf of the petitioners, this Court has passed the order dated14th December, 1983 and has directed the respondent Municipality to absorb the petitioners on permanent basis considering his case on the basis of seniority. Therespondent Municipality was further directed to give to thepetitioner benefits on the basis as if he was appointed on permanent basis on November, 24, 1983. In this petition, the petitioner has relied upon page 21 of the petition wherein thetribunal has directed the respondent no.1 Municipality to prepare seniority list of daily wagesr and demand No. 10 has been granted by the tribunal as under :

"Demand No. 10:

Daily wagers are to boe made permanent. The Nagarpalikah ad accepted to prepare seniioritylist for daily wagers and it was decided to take seniority as basis for the daily wager. Copy of the list maybe given to the union."

In view of these facts, respondent No.1 Nagarpalika is directed toprepare the seniority listof daily wagers and accordingly to consider thecases of daily wagers for permanent absorptionon thebasis of their seniority and copy of the seniority list be givento thepetitioner union.This exercise be completed by the first respondent within two months from the dateof receipt of writ of this order. This petition is allowed to the aforesaid extent. Rule ismade absolute accordingly with noorder as to costs.

14.3.2000. (H.K.Rathod,J.)

Vyas